

Jon Kyl, Chairman

Lawrence Willcox, Staff Director  
347 Russell Senate Office Building  
Washington, DC 20510  
202-224-2946  
<http://rpc.senate.gov>

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*Six Options to Reform the Process*

**Budget Process Reform: Time to Fix a Growing Leak**

*Executive Summary*

- The process by which Congress makes decisions regarding the federal budget can substantially determine outcomes. New budget process mechanisms can help provide Members of Congress with the tools they need to exercise fiscal constraint.
- With calls from the President for a Legislative Line Item Veto authority and with calls from the public for greater scrutiny over the budget, the climate is ripe for the implementation of budget process reform.
- This week, the Senate Budget Committee will propose new mechanisms that will help reduce spending and keep the deficit on a downward path.
- This paper will discuss the pros and cons of the following six frequently discussed budget process reform options, some of which the Senate Budget Committee may include in its proposal:
  - Biennial Budgeting
  - Legislative Line Item Veto
  - Earmark Reform
  - Entitlement Commission
  - PAYGO
  - Emergency Supplemental Spending Reform
- Since the creation of the comprehensive, consolidated federal budget in 1967, there have been numerous budget process reforms yielding mixed results. This paper provides an appendix that summarizes the major reforms over the past 40 years.

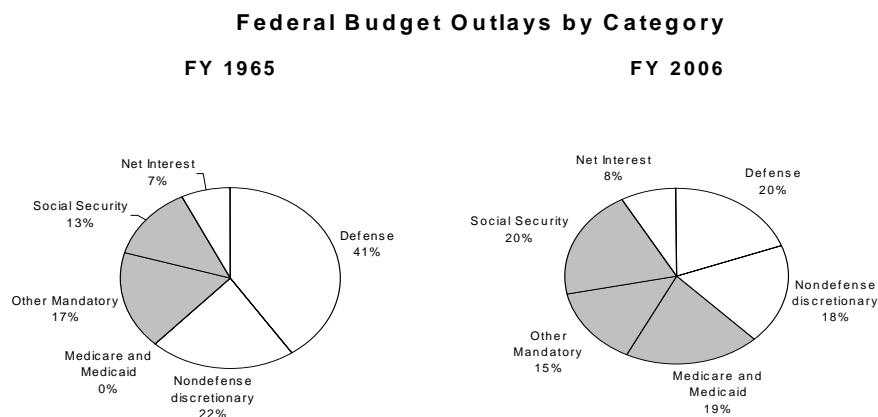
## Introduction

The process by which Congress makes decisions regarding the federal budget can substantially determine outcomes. Generally, it seems as though budget forces that favor spending and entitlement programs have consistently prevailed over forces that favor fiscal restraint. This is the reason that Congress this year must reform its budget process. While process reform alone will never solve all of the country's fiscal problems, new mechanisms can help provide Senators with the structural tools they need to help them make tough choices.

Since the creation of the comprehensive, consolidated federal budget in 1967, there have been numerous budget process reforms yielding mixed results. Because some of the current reform proposals build on past mechanisms, this paper provides an appendix that summarizes the major reforms over the past 40 years. In looking at the current budget process reform proposals, this paper will not advance a specific reform, but will review frequently discussed options and will provide the pros and cons of each option.

### **Mandatory Entitlements Will Make Up Most of the Federal Budget**

The state of mandatory entitlements is but one illustration of how budget rules favor spending over restraint. Specifically, mandatory spending has increased in the past 40 years and is expected to rise at an even faster rate in the next 40 years. While entitlements made up 30 percent of the budget in 1965, entitlements now make up almost 55 percent of the federal budget. If left unchanged, federal spending will accelerate to a level at which mandatory spending and interest payments alone will consume *all* federal revenues by 2040.<sup>1</sup> This path is clearly unsustainable.<sup>2</sup>



Source: Historical Tables, Budget of the United States Government, Fiscal Year 2007, pp. 133, 137-142

<sup>1</sup> Budget of the United States Government, Fiscal Year 2007, "The Nation's Fiscal Outlook," p. 18.

<sup>2</sup> See Brian Riedl, "Entitlement-Driven Long-Term Budget Substantially Worse than Previously Projected," November 30, 2005. <http://www.heritage.org/research/budget/bg1897.cfm> See also, "Daniel J. Mitchell, "The Impact of Government Spending on Economic Growth," Heritage Foundation Backgrounder No. 1831, March 31, 2005.

## **Discretionary Spending is also Creeping Up**

In recent years, discretionary spending has also begun to grow, both in terms of dollars and as a percentage of GDP. Discretionary spending is spending that the President and Congress control through annual appropriations acts. In the mid-1980s, discretionary spending accounted for 10 percent of GDP. In 1999, discretionary spending had fallen to 6.3 percent. But spending has risen due to the events of September 11 and the war in Iraq.<sup>3</sup> Discretionary outlays jumped to 7.9 percent of GDP in 2005.<sup>4</sup>

## **Current Options for Successful Reform**

With calls from the President for a Legislative Line Item Veto authority (a version that would avoid constitutionality concerns) and with calls from the public for greater scrutiny over the budget, the climate is ripe for the implementation of budget process reform. Below is a brief description of some major proposals that are frequently discussed. Of the six proposals discussed, biennial budgeting, line item veto, “pay-as-you-go,” and an entitlement commission all affect mandatory spending, but only to a limited degree. However, it is likely that the Senate Budget Committee will propose new mechanisms that will work as fall-backs to reduce spending and keep the deficit on a downward path, should the Congress and the President fail to get the job done through the regular budget process. This problem must be addressed as Congress considers various budget reforms.

### **Biennial Budgeting**

A common criticism of the budget process is that the formulating, enacting, and executing of a budget consumes an inordinate amount of time, resulting in less time for oversight and long-range planning, which some believe is necessary for budget control and enforcement. Some form of biennial budgeting may address this problem. Biennial budgeting is a concept with several variations such as two-year budget resolutions, two-year appropriations, or multiyear authorizations.<sup>5</sup> Most of the current proposals before the Senate incorporate all three factors.<sup>6</sup> Biennial budgeting has a long history at the state level, with 21 states currently operating under a biennial budget system.<sup>7</sup> The administrations of the past four Presidents have all supported some form of biennial budgeting.<sup>8</sup>

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<sup>3</sup> Since 2001, the Congress and the President have provided approximately \$323 billion in military appropriations for military operations in Iraq and Afghanistan and for other Department of Defense activities in support of the War on Terror. Congressional Budget Office, “The Budget and Economic Outlook: Fiscal Years 2007 to 2016,” January 2006, p. 6.

<sup>4</sup> Ibid, p. 68.

<sup>5</sup> For a full discussion of biennial budgeting, see CRS RL30550, “Biennial Budgeting: Issues and Options,” March 4, 2004.

<sup>6</sup> Senators Domenici (S. 887) and Voinovich (S. 568) have both introduced bills that incorporate all three factors. There are also two proposals in the House, H.R. 2290 sponsored by Representative Hensarling and H.R. 2664 sponsored by Representative Dreier. The FY 2007 Budget also includes a proposal for a biennial budget.

<sup>7</sup> Ronald K. Snell, “Annual and Biennial Budgeting: The Experience of State Governments,” National Conference of State Legislatures, 1997.

<sup>8</sup> See Senator Pete V. Domenici, Congressional Record, April 21, 2005, p. S4123. “President Bush has supported a biennial budgeting process. Presidents Clinton, Reagan and Bush also proposed a biennial appropriations and budget

<b>Annual Budget with Annual Legislative Sessions</b>	<b>Biennial Budget with Annual Legislative Sessions</b>	<b>Biennial Budget with Biennial Legislative Sessions</b>
Alabama Alaska California Colorado Delaware Florida Georgia Idaho Illinois Iowa Kansas Louisiana Maryland Massachusetts Michigan Mississippi Missouri New Jersey New Mexico New York Oklahoma Pennsylvania Rhode Island South Carolina South Dakota Tennessee Utah Vermont West Virginia	Arizona Connecticut Hawaii Indiana <sup>a</sup> Maine Minnesota <sup>a</sup> Nebraska New Hampshire <sup>a</sup> North Carolina <sup>a</sup> Ohio Virginia Washington <sup>a</sup> Wisconsin Wyoming <sup>a</sup>	Arkansas Kentucky Montana Nevada North Dakota <sup>a</sup> Oregon <sup>a</sup> Texas <sup>a</sup>

**Source:** National Conference of State Legislatures

a. These states enact consolidated two-year budgets; all other states with biennial budgets enact two annual budgets simultaneously.

Proponents<sup>9</sup> of biennial budgeting argue such a cycle could (1) reduce the congressional workload by eliminating the need for annual review of routine matters; (2) reserve the second session of each Congress for improved oversight and program review; and (3) allow for better long-range planning by agencies.<sup>10</sup> According to CBO, the total amount of unauthorized appropriations ranges from \$90-110 billion annually. A biennial budget can provide Congress with additional time to conduct greater oversight and ideally find ways to control mandatory entitlement programs. Also, long-range planning increases certainty about the level of future funding, which would also help state and local governments in their own budgeting processes.

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cycle. Leon Panetta, who served as White House Chief of Staff, OMB Director, and House Budget Committee Chairman, has advocated a biennial budget since the late 1970s. Former OMB and CBO Director Alice Rivlin has called for a biennial budget the past two decades. The Majority Leader is a co-sponsor of this legislation.” Biennial budgeting has also been recommended by a number of federal committees and commissions, including the 1993 National Performance Review Commission, the 1989 National Economic Commission, and the Study Group on Senate Practices and Procedures (also known as the Pearson-Ribicoff Commission).

<sup>9</sup> Think thanks that support biennial budgeting include Heritage Foundation, Cato Institute, Committee for a Responsible Federal Budget, and the Concord Coalition.

<sup>10</sup> CRS RL30550, “Biennial Budgeting: Issues and Options,” March 4, 2004.

Proponents also argue that, historically, the President and Congress have made multiyear budget agreements.<sup>11</sup> Thus, a biennial budget would be a natural extension of such agreements.

One of the opponents' chief arguments against biennial budgeting is that it would lead to greater authority for the President. However, a review of the states' experiences does not provide evidence to support this argument.<sup>12</sup> Critics also argue that Congress would not have the flexibility to deal with unforeseen problems such as a catastrophic terrorist event;<sup>13</sup> however, a well-defined provision that provides for emergencies could solve this problem. Critics of biennial budgeting also argue that a biennial budget would result in less accurate forecasts,<sup>14</sup> since agencies already begin planning 18 months in advance. A biennial budget would mean that agencies would need to prepare a budget 30 months in advance. Finally, critics argue that the annual review of appropriations is an important part of oversight that would be lost under a biennial budget.<sup>15</sup>

### **Legislative Line Item Veto Proposal (LLIV)**

The President's Budget for FY 2007 proposes a new line-item veto.<sup>16</sup> Notwithstanding the title, the proposal is actually an expedited rescission authority.<sup>17</sup> This proposal would give the President the authority to single out new discretionary spending, new mandatory spending, or new special interest tax breaks for additional Congressional consideration. The rescission package that the President submits to Congress would not be amendable, could not be filibustered in the Senate, and would be approved with the support of a simple majority in each chamber. Experts at the Office of Management and Budget (OMB) believe this proposal addresses the Supreme Court's constitutionality concerns expressed in its rejection of the 1996 Line-Item Veto Act.<sup>18</sup>

Proponents of a LLIV argue that such a tool would give the President a way to target unnecessary or wasteful spending. Such authority could improve accountability by drawing attention to questionable spending items. The savings from the cancelled items under the 1996

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<sup>11</sup> CRS RL31478, "Federal Budget Process Reform: Analysis of Five Reform Issues," July 1, 2004.

<sup>12</sup> Ronald K. Snell, "Annual and Biennial Budgeting: The Experience of State Governments," National Conference of State Legislatures, 1997. Snell finds that the state experience does not make a clear case either in support of a biennial budget or annual budget.

<sup>13</sup> Robert Greenstein, Center on Budget and Policy Priorities, "Biennial Budgeting: Do the Drawbacks Outweigh the Advantages?" May 5, 2000.

<sup>14</sup> Thomas E. Mann, Brookings Institution, "Biennial Budgeting Act of 2005," in testimony before the Senate Committee on Governmental Affairs, Subcommittee on Financial Management and Accountability, July 24, 1996.

<sup>15</sup> Greenstein.

<sup>16</sup> A draft measure has been introduced as S. 2381. See Senator Bill Frist, Congressional Record, March 7, 2006, p. S1838.

<sup>17</sup> Expedited rescission authority has attracted more supporters than line-item veto authority because it is generally regarded as transferring less power from Congress to the President. Under expedited rescission, Congressional approval would be necessary to cancel the funding. The rescission package would have fast-track procedures ensuring that it receive an up-or-down vote.

<sup>18</sup> P.L. 104-130, 110 Stat. 1200, codified as 2 U.S.C. 691-692. For more information, see testimony from Line-Item Rescission Authority Hearing before the Senate Budget Committee on May 2, 2006. Witnesses included Senator Robert Byrd and Austin Smythe, Acting Deputy Director of OMB.

<http://budget.senate.gov/republican/NewHearings&Testi.htm>

Line-Item Veto Act amounted to a five-year savings of \$600 million.<sup>19</sup> This total would have been higher had all of the President's recommendations been accepted. Line-item veto authority has a long history at the state-level, as the governors of 43 states already have this authority.<sup>20</sup>

Opponents argue that such an authority disrupts the system of checks and balances and separation of powers.<sup>21</sup> This authority could provide the President with an unfair advantage during budget negotiations. LLIV may also diminish incentives for lawmakers to take the unpopular step of removing unnecessary provisions themselves, knowing that the President could strike them. Opponents will also cite economic studies that show the use of the line-item veto at the state level reveals little or no effect on controlling deficits in the long-run.<sup>22</sup>

### **Earmark Reform**

While there is no single common understanding of the term "earmark," broadly speaking, earmarks are provisions associated with legislation that specify certain congressional spending priorities or, in the case of revenue bills, tax relief that applies to a very limited number of individuals or entities.<sup>23</sup> Earmarks may appear in the bill or report of appropriations, authorization, or revenue measures.<sup>24</sup> In addition to providing a valuable tool to reduce unnecessary spending, earmark reform also would provide greater transparency and disclosure, thus addressing concerns raised in the context of lobbying reform legislation.<sup>25</sup>

Proponents of earmark reform argue that earmarks encourage wasteful spending.<sup>26</sup> President George W. Bush addressed the issue of earmarks in the State of the Union address: "I am pleased that Members of Congress are working on earmark reform because the federal budget

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<sup>19</sup> CRS RS22155, "Item Veto: Budgetary Savings," May 26, 2005, p. 4.

<sup>20</sup> Ibid, p. 1.

<sup>21</sup> See Senator Robert Byrd, Congressional Record, March 27, 1996, p. S2933-S2950. ("This so-called line-item veto act should be more appropriately labeled 'The President Always Wins Bill.' From now on, the heavy hand of the President will be used to slap down Congressional opposition wherever it may exist."). Academic research has shown that the line-item veto can affect the existing system of checks and balances, and the "balance of power" arguments that were the core of the Supreme Court's rationale for striking down the line-item veto may have an empirical basis in actual politics. See, e.g., M.V. Hood III, Irwin L. Morris, and Grant W. Neeley, "Penny Pinching or Politics? The Line Item Veto and Military Construction Appropriations," Political Research Quarterly, Vol. 52, No. 4. (Dec. 1999), pp. 754-766. See also, Antony R. Petrilla, 1994. "The Role of the Line-Item Veto in the Federal Balance of Power." Harvard Journal of Legislation 31: 469-509.

<sup>22</sup> See e.g., Douglas Holtz-Eakin, "The Line-Item Veto and Public Sector Budgets: Evidence from the States," NBER Working Paper 2531, March 1998. <http://papers.nber.org/papers/W2531.pdf>

<sup>23</sup> CRS RL33397, "Earmark Reform Proposals: Analysis of Latest Versions of S. 2349 and H.R. 4975," May 12, 2006.

<sup>24</sup> Ibid.

<sup>25</sup> Most earmark reforms seek to bring greater transparency to the budget process or create a method to remove earmarks from conference reports or bills. Currently, there are numerous earmark reform proposals, both stand-alone bills and individual provisions, that have some or all of these features. S. 2349, the Legislative Transparency and Accountability Act of 2006, contained numerous provisions regarding earmarks. Additionally, three major reforms before the Senate are S. 1495 and S. 2265, sponsored by Senator John McCain, and S. 2179, sponsored by Senator Barack Obama.

<sup>26</sup> See Senator John McCain, Congressional Record, February 9, 2006, p. S980-81. See also, Senator Tom Coburn's statement before the Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Federal Financial Management, Government Information, and International Security, on Earmark Reform-The Obligation of Funds Transparency Act (S. 1495), March 16, 2005. [http://hsgac.senate.gov/\\_files/031606CoburnOpen.pdf](http://hsgac.senate.gov/_files/031606CoburnOpen.pdf)

has too many special interest projects.”<sup>27</sup> Earmarks in appropriations bills increased in number from 4,155 in 1994 to 15,887 in 2005, an increase of 282 percent.<sup>28</sup>

Opponents argue that earmarks serve very important purposes.<sup>29</sup> Eliminating all earmarks would turn spending power over to bureaucrats who may be unfamiliar with local issues.<sup>30</sup> Thus, the enactment of any earmark reform may inadvertently result in less control and transparency in the decision-making process. Finally, opponents may argue that the “power of the purse” is a constitutional right of Congress and earmark reform would curb that right.

### **Entitlement Commission**

Few budget experts would dispute that mandatory entitlement programs pose the greatest challenge to future fiscal policy. However, attempts to address this problem often fail due to the vast number of competing interest groups. An entitlement commission may create the necessary mechanism and framework for evaluating and solving this growing problem.<sup>31</sup> Such a commission would review Social Security, Medicare, and Medicaid, and make recommendations to sustain solvency and stability of these programs. The commission could also be designed so that its recommendations would be given fast-track consideration with an up-or-down vote. In the State of the Union address, the President called for a commission on entitlement reform that would include members of both parties.<sup>32</sup>

Proponents of an entitlement commission argue that such an organization would provide the objectivity and expertise needed to deal with the problem. There is a considerable amount of academic research and experience that indicates commissions can be extremely useful under certain conditions.<sup>33</sup> Furthermore, the often overlapping jurisdictions of Congressional committees provide a daunting hurdle to remedy mandatory spending problems. Not only could an entitlement commission help overcome this hurdle, but its recommendations could be given expedited congressional consideration.

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<sup>27</sup> The State of the Union Address by the President of the United States, January 31, 2006.

<sup>28</sup> Senator McCain, pp. S980-81. For more information, see Tom Finnigan, “All About Pork: The Abuse of Earmarks and the Needed Reforms,” Citizens Against Government Waste, May 3, 2006.

<sup>29</sup> See comments by Senator Ted Stevens, “Earmarks don’t need reforming,” Anchorage Daily News, February 2, 2006.

<sup>30</sup> Senator Larry Craig, “Earnest Earmarks,” February 1, 2006. See also, Allen Schick, 2000. The Federal Budget: Politics, Policy, and Process. Washington, DC: Brookings Institution Press, pp. 213-215 (“Earmarks flourish because members of Congress would rather decide where appropriations are spent than let executive officials make the decisions”).

<sup>31</sup> For example, Senator Chuck Hagel introduced S. 1889, a bill to establish a comprehensive entitlement reform commission to review Social Security, Medicare, and Medicaid, and make comprehensive recommendations to sustain the solvency and stability of these programs.

<sup>32</sup> The State of the Union Address by the President of the United States, January 31, 2006.

<sup>33</sup> See Kevin A. Hassett, “What to do if Bush Calls You for Commission Duty,” Bloomberg, February 6, 2006. (All this suggests a pattern. When commissions are made up of genuine experts (rather than politicians) and are charged with investigating a question we don’t already know the answer to, they can provide priceless service to our country. When a commission is assembled to try to solve a political problem that you can’t fix in the House or the Senate, it’s doomed to failure.) For an in-depth discussion, see Amy B. Zegart, “Blue ribbons, black boxes: toward a better understanding of presidential commissions,” *Presidential Studies Quarterly*, June 1, 2004, Volume 34, Issue 2, pp. 366-394. See, e.g., David Flitner, Jr., “Why the Cynics Are Wrong About Presidential Commissions,” February 9, 2004. See also, S. Anna Kondratas and Stephen Moore, “Breaking the Entitlements Deadlock with Presidential Commission,” Heritage Foundation Backgrounder, November 13, 1985.

Opponents may argue that the work of such a commission should be undertaken by elected officials and is duplicative of various committees. Creating a commission simply passes the responsibility of Congress on to a third party.

### **PAYGO: Overhyped?**

PAYGO is frequently hailed as the silver bullet that will bring down the budget deficit and restore budget discipline. The evidence does not necessarily support this assertion. Under the original statutory PAYGO rules (which expired at the end of FY 2002), the budgetary impact of all new legislation that changes spending or revenues was tracked and reported by OMB.<sup>34</sup> If the net effect of all legislation resulted in a net increase in the deficit for a fiscal year, the President was required to sequester mandatory funds to eliminate the balance.<sup>35</sup> Thus, PAYGO focused on two aspects of the budget: new legislation and the budget deficit.<sup>36</sup>

The chief argument used to defend PAYGO is the unproven claim that the emergence of budget surpluses in the late 1990's was largely due to the PAYGO framework, and that PAYGO has been the most effective tool in controlling the budget deficit.<sup>37</sup> One result of PAYGO was the emphasis on deficits and increased public scrutiny of the budget. But, the evidence that PAYGO contributed to the elimination of budget deficits is inconclusive.

During the 12 years that PAYGO was in effect, not a single sequestration action was ever invoked for mandatory spending.<sup>38</sup> PAYGO also focused on the budget deficit and not on overall federal spending. It had no effect on the ballooning problem of existing mandatory entitlements.<sup>39</sup>

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<sup>34</sup> There are two contexts for what is known as PAYGO. One was based in law from 1991-2002 that was designed to deter deficit increases by threatened sequestration. The other was the Senate PAYGO point of order, originally designed to mimic statutory PAYGO, but which has evolved since then. Statutory PAYGO, the original rule established by the BEA of 1990, is described in this paragraph. The Senate's current PAYGO point of order, also known as post-policy PAYGO, requires offsets for any legislation that would cut taxes or increase mandatory spending above the budget deficit level assumed in the budget resolution. For more information, see Senate Budget Committee, "Budget Bulletin: Informed Budgeteer, PAYGO Refresher Course," February 3, 2006, and CRS RL31943, "Budget Enforcement Procedures: Senate's Pay-As-You-Go (PAYGO) Rule," April 20, 2005.

<sup>35</sup> Sequestration is the cancellation of budgetary resources available for a fiscal year in order to enforce the discretionary spending limits or pay-as-you-go procedures in that year.

<sup>36</sup> PAYGO was not designed to trigger any examination of the base budget. Cost increases in existing mandatory programs are exempt under PAYGO and could be ignored. For more information, see Susan J. Irvin, Director of Federal Budget Analysis, GAO, in testimony before the House Budget Committee, "Budget Process: Considerations for Updating the Budget Enforcement Act," July 19, 2001. <http://www.gao.gov/new.items/d01991t.pdf>

<sup>37</sup> "Joint Statement in Support of Restoring Pay-As-You-Go Budget Enforcement for Tax Cuts and Entitlements," Concord Coalition, Committee for Economic Development, Committee for a Responsible Federal Budget and the Center on Budget and Policy Priorities, April 20, 2004 ("[PAYGO] was an effective part of past bipartisan efforts to bring deficits under control. Renewing it would be the best first step to countering the current trend of digging an ever-deeper fiscal hole. In contrast, failure to renew PAYGO, or doing so in a weak form, would send an alarming signal that Washington policymakers are not yet taking our nation's deteriorating fiscal outlook seriously").

<sup>38</sup> CBO, "The Budget and Economic Outlook: Fiscal Years 2004-2013, Appendix A: The Expiration of Budget Enforcement Procedures: Issues and Options," January 2003.

<sup>39</sup> Ibid.



The most troubling feature of PAYGO is its tendency to discourage the extension of tax relief.<sup>40</sup> This is due largely to the technical aspects of how PAYGO interacts with the baseline rules. Under current scoring rules, mandatory spending programs are assumed to continue in the baseline. Thus, a bill to simply extend a mandatory program does not incur any PAYGO hurdles. However, under these same scoring rules, most revenue provisions which expire under current law are also assumed to expire in the baseline. Thus, a bill to simply extend a tax cut is subject to PAYGO rules.

For example, compare the baseline treatment of extending the 15 percent rate on capital gains and dividends and welfare reform. Although last year's extension of welfare reform really cost a total of \$98 billion over five years, relative to the baseline it cost \$0. And so, PAYGO rules would not apply. On the other hand, extending the 15 percent rate on capital gains and dividends ostensibly would reduce revenues nearly \$21 billion. Relative to the baseline, it cost the full \$21 billion. And so, Congress would either have to find offsets or be subject to PAYGO rules. Under such disparate rules, Congress would have to find savings to pay for the extension of tax relief but not the extension of many expiring mandatory programs.

	Change in Spending Relative to Current Law	Change in Spending Relative to "Baseline"
Welfare reform	+ \$ 98 billion over 5 years	\$ 0
15% Rate on cap gains	+ \$ 21 billion	+ \$ 21 billion

Some PAYGO supporters want to stop the extension of current-law tax relief that is set to expire in 2010. Given the political appeal of higher spending, PAYGO simply supports an anti-tax-cut agenda unrelated to deficit reduction.<sup>41</sup>

It is likely that the Senate Budget Committee will propose an alternative that is designed to keep spending in check, be more effective in reducing the deficit than statutory PAYGO ever was, and not prejudice tax relief.

### **Emergency Supplemental Spending Reform**

Under the Budget Enforcement Act, which was in effect from 1991 to 2002, Congress placed caps on discretionary spending, with exemptions for "emergency" spending.<sup>42</sup> Emergency designations, usually used in supplemental appropriations, allowed additional appropriations in order to respond to unanticipated or other emergency situations such as war and natural disaster. Currently, in the absence of statutory discretionary caps, the emergency designation effectively exempts any spending or tax cuts from congressional budget constraints, such as the levels established in the budget resolution.<sup>43</sup> Many policymakers argue that the

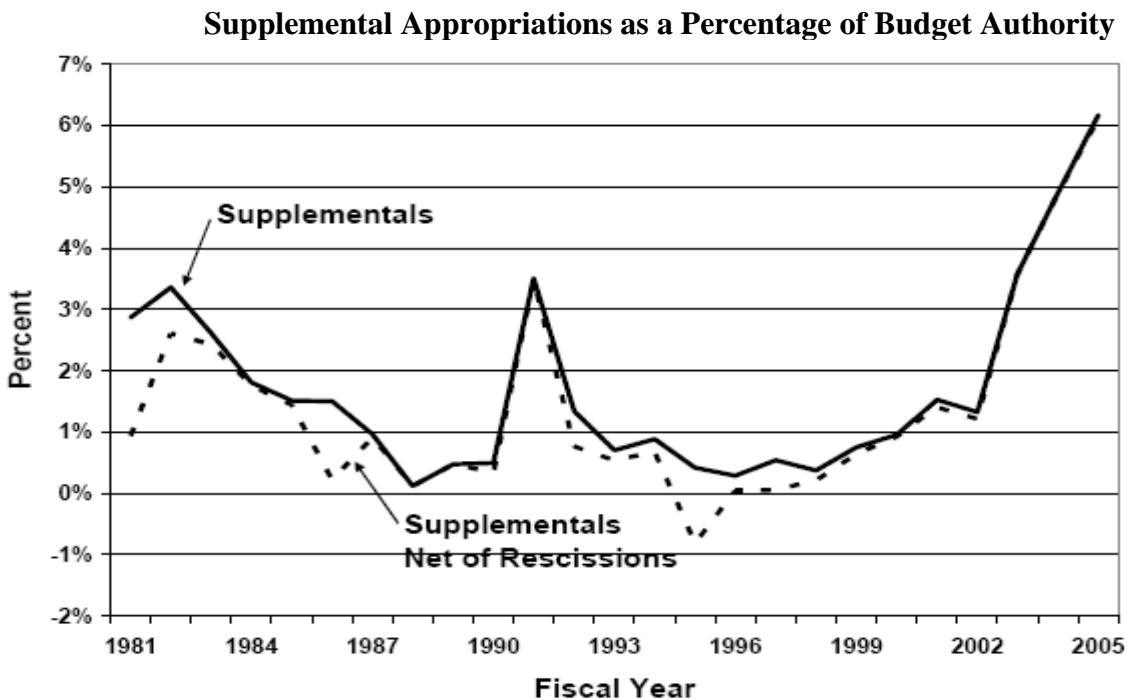
<sup>40</sup> See Senator Judd Gregg, Congressional Record, May 14, 2006, p. S2062

<sup>41</sup> See former Senator Don Nickles in Testimony before the House Budget Committee, March 16, 2006.

<sup>42</sup> CRS RL31478, "Federal Budget Process Reform: Analysis of Five Reform Issues," July 1, 2002, p. 18.

<sup>43</sup> Ibid, p. 20.

application of the emergency designation has been used to circumvent discretionary caps and budget enforcement rules.<sup>44</sup>



Source: CRS RL 33134, “Supplemental Appropriations: Trends and Budget Impacts since 1981,” November 2, 2005, p. CRS-5.

The change in the use of the supplemental appropriations over the past 25 years gives credibility to this argument. In the 1980s, almost half of the supplemental appropriations were for mandatory programs, such as Food Stamp programs or unemployment insurance. After 1990, over 90 percent of the supplemental appropriations have been for discretionary spending such as disaster relief.<sup>45</sup> Supplemental appropriations now make up almost 6 percent of the entire federal budget.<sup>46</sup>

One possible solution to this problem may be an automatic across-the-board reduction if spending for emergencies rises above a certain level. This would close a large loophole that has weakened overall budget discipline, encourage a stricter review when using the emergency designation, and restore the credibility of budget projections.

<sup>44</sup> See Analytical Perspectives, Budget of the United States Government, Fiscal Year 2007, p. 215. See Senator Judd Gregg, “The Safety Valve has Become a Fire Hose,” April 18, 2006, Wall Street Journal, p. A18. Also see Senator Jeff Sessions remarks, Congressional Record, May 5, 2006, p. S4023-4024.

<sup>45</sup> Ibid.

<sup>46</sup> For more information, see CRS RL33134, “Supplemental Appropriations: Trends and Budgetary Impacts since 1981,” November 2, 2005.

Some Senators argue that some of their colleagues see emergency spending as “free money,” since it does not count toward budget caps.<sup>47</sup> Forcing across-the-board cuts could strengthen the overall budget process, increase the integrity of the emergency designation use, and end the use of “free money.” Furthermore, it would eliminate the subjective nature of the use of the “emergency” designation.

Critics of enacting laws changing the emergency designation argue that such mechanisms may hinder the ability of Congress and the President to respond to emergency situations quickly. Opponents may also argue that it is unfair to “take money away” from certain agencies to pay for an unrelated disaster.<sup>48</sup> For example, they may argue that it is irresponsible to take money away from medical care for veterans to pay for hurricane relief.

## **Conclusion**

The best path to greater budget discipline is greater legislative and executive branch attention to the fiscal challenges facing the nation. After all, ballooning mandatory entitlements and rising discretionary spending present real threats to future budgets— and, consequently, to the economy as a whole. While budget process reform will not, by itself, reduce spending, it is an appropriate first step towards greater fiscal responsibility.

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<sup>47</sup> See Senator Judd Gregg, “The Safety Valve has Become a Fire Hose,” April 18, 2006, Wall Street Journal, p. A18. Also see Senator Jeff Sessions remarks, Congressional Record, May 5, 2006, p. S4023-4024.

<sup>48</sup> CRS RL31478, “Federal Budget Process Reform: Analysis of Five Reform Issues,” July 1, 2004, p. 23.

## **Appendix: Previous Budget Process Reforms**

### **1967: A Consolidated President's Budget:**

- Prior to 1967, the Federal Budget was presented in three separate ways: administrative budget, consolidated cash budget, and national income accounts. This confusing presentation did not encourage transparency or responsible governance.
- In response to these criticisms, President Lyndon Johnson created a commission to study the federal budget.
- The President's Commission on Budget Concepts recommended the adoption of a unified budget and the criteria for which a transaction or activity should be included in the budget.

### **1974: Creating the Fundamental Process Used Today**

- These recommendations resulted in the comprehensive and consolidated federal budget used today. In the early 1970s, like today, Congress struggled to control expenditures. During this time, the Appropriations Committees gradually lost control of expenditures, the annual deficit spiraled upward, and the Executive Branch clashed with Congress over spending priorities.<sup>1</sup>
- In response, Congress established the Congressional Budget and Impoundment Control Act of 1974, which created the Congressional Budget Office and the House and Senate Budget Committees, and which today is viewed as the single most significant piece of legislation affecting the Federal budget process.<sup>2</sup>
- Passage of the 1974 Budget Act had a major institutional and procedural effect on the legislative branch. In addition, the law specified that the President may submit a special message to Congress to rescind appropriated funds. If both the Senate and House do not approve a rescission proposal within 45 days, any funds being withheld must be made available for obligation.<sup>3</sup>
- As significant as it was, the law did not result in achieving a balanced budget.

### **1985: Deficit Targets to Curb Deficits**

- By the mid-1980s, deficit growth forced Congress to raise the ceiling on the debt limit to more than \$2 trillion.<sup>4</sup>
- In response to the deficit, Congress passed the Balanced Budget and Emergency Deficit Control Act of 1985, the first law that used a formula approach to constrain the deficit.<sup>5</sup> This law (also known as the Gramm-Rudman-Hollings Act) required the President's budget to propose levels of revenues and spending consistent with the goal of returning the budget to balance by 1991. If the projected deficit targets were not met, sequestration— withholding sufficient budgetary resources to reduce spending by the amount needed to meet the targets— was required.

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<sup>1</sup> Walter J. Oleszek, Congressional Procedures and the Policy Process (Washington, DC: CQ Press, 2004), p. 56.

<sup>2</sup> H.R. 7130, 93<sup>rd</sup> Congress, Titles I-IX of Public Law 93-344, July 12, 1974.

<sup>3</sup> Walter J. Oleszek, Congressional Procedures and the Policy Process (Washington, DC: CQ Press, 2004) p. 57.

<sup>4</sup> Congress increased the debt limit to \$2.079 trillion on December 12, 1985. Historical Tables, Budget of the United States Government, p. 131.

<sup>5</sup> H.J.Res. 372, 99<sup>th</sup> Congress, Public Law 99-177, December 12, 1985.

- In the end, the plan did not work because of its heavy reliance on projections. Reliance on projected, rather than actual, deficits led to the manipulation of budget estimates instead of genuine savings.<sup>6</sup> And so, deficits continued to climb.<sup>7</sup>

### **1990: Discretionary Spending Caps and Pay-As-You-Go**

- In the face of a potentially large sequestration for FY 1991, Congress and the first President Bush negotiated a new agreement, resulting in the passage of the Budget Enforcement Act of 1990 (BEA of 1990).<sup>8</sup> The BEA of 1990 revised the sequestration targets and established new caps on discretionary spending.
- The Act's most notable feature was the creation of pay-as-you-go (PAYGO) requirements, which mandated that any new changes to direct spending and revenue legislation must not increase the deficit.
- PAYGO, under BEA of 1990, was somewhat limited in that it did not call for changes in budget policies if economic or other changes unrelated to new laws caused the budget picture to worsen.<sup>9</sup>

### **1996: The Line Item Veto Act**

- In 1996, the Line Item Veto Act of 1996 was enacted, allowing the President to cancel wasteful spending and special-interest tax breaks.<sup>10</sup>
- The law also allowed Congress to override the President's line item veto. President Bill Clinton exercised this new authority by canceling 82 items, of which 38 were overturned by Congressional action.
- In 1998, the Line Item Veto was ruled unconstitutional by the U.S. Supreme Court as it violated the Presentment Clause of Article 1, section 7 of the Constitution.<sup>11</sup>

### **1997: Extending the Budget Enforcement Act**

- With BEA of 1990 set to expire in 1997, Congress established the Budget Enforcement Act of 1997 (BEA of 1997), extending the discretionary spending limits and PAYGO requirements through FY 2002.<sup>12</sup>
- The BEA of 1997 was not extended after 2002.

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<sup>6</sup> Allen Schick, The Federal Budget: Politics, Policy, Process (Washington, DC: Brookings Institution Press, 2000), p. 22.

<sup>7</sup> Oleszek, p. 70. For more information see Edward M. Gramlich, "U.S. Federal Budget Deficit and Gramm-Rudman-Hollings," *American Economic Review*, Vol. 80, Issue 2, May, 1990, pp. 75-80.

<sup>8</sup> H.R. 5835, 101<sup>st</sup> Congress, Title XIII of Public Law 101-508, November 5, 1990.

<sup>9</sup> CBO, "The Budget and Economic Outlook: Fiscal Years 2004-2013, Appendix A: The Expiration of Budget Enforcement Procedures: Issues and Options," January 2003. PAYGO was more realistic than previous reforms in that it held Congress and the President accountable only for their own actions and not for the behavior of the economy beyond their control.

<sup>10</sup> S. 4, 104<sup>th</sup> Congress, Public Law 104-130, April 9, 1996.

<sup>11</sup> Clinton v. City of New York, 524 U.S. 417 (1998).

<sup>12</sup> H.R. 2014, Title X of Public Law 105-33, August 5, 1997. See CRS 97-931, "Budget Enforcement Act of 1997: Summary and Legislative History," October 8, 1997, for a full discussion of the Budget Enforcement Act of 1997.